



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2019-0020; Notice 1]**

#### **FCA US, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** FCA US, LLC, (f/k/a Chrysler Group, LLC) “FCA US,” has determined that certain Mopar headlamp assemblies sold as aftermarket equipment and installed as original equipment in certain model year (MY) 2017–2018 Dodge Journey motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. FCA US filed a noncompliance report for the replacement equipment dated March 14, 2019, and later amended it on April 9, 2019. FCA US also filed a noncompliance report for the associated vehicles dated March 14, 2019, later amended it on April 9, 2019, and April 25, 2019. FCA US subsequently petitioned NHTSA on April 5, 2019, and filed a supplemental petition on May 14, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of FCA US’s petition.

**DATES:** The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments

and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

#### **SUPPLEMENTARY INFORMATION:**

**I. Overview:** FCA US has determined that certain MY 2017–2018 Dodge Journey motor vehicles and replacement Dodge Journey headlamp assemblies do not fully comply with paragraph S8.1.11 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). FCA US filed a noncompliance report for the replacement equipment dated March 14, 2019, and later amended it on April 9, 2019. FCA US also filed a noncompliance report for the associated vehicles dated March 14, 2019, later amended it on April 9, 2019, and April 25, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. FCA US subsequently petitioned NHTSA on April 5, 2019, and filed a supplemental petition on May 14, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor

vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt, of FCA US's petition, is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercises of judgment concerning the merits of the petition.

**II. Equipment and Vehicles Involved:** Approximately 16,604 Mopar headlamp assemblies sold as aftermarket equipment, manufactured between August 2, 2017, and July 6, 2018, are potentially involved. Approximately 84,908 MY 2017–2018 Dodge Journey motor vehicles, manufactured between August 2, 2017, and July 6, 2018, are potentially involved.

**III. Noncompliance:** FCA US explains that the noncompliance is that the subject headlamp assemblies, sold as aftermarket equipment and equipped in certain MY 2017–2018 Dodge Journey motor vehicles contain a front amber side reflex reflector that does not meet the photometric requirements specified in paragraph S8.1.11 of FMVSS No. 108. Specifically, the reflex reflector, in the subject headlamp assemblies, do not meet the minimum photometry requirements at the observation angle of 0.2 degrees.

**IV. Rule Requirements:** Paragraph S8.1.11 of FMVSS No. 108 includes the requirements relevant to this petition. Each reflex reflector must be designed to conform to the photometry requirements of Table XVI-a, when tested according to the procedure in paragraph S14.2.3 of FMVSS No. 108, for the reflex reflector color.

**V. Summary of FCA US's Petition:**

The following views and arguments presented in this section, V. Summary of FCA US's petition, are the views and arguments provided by FCA US. They have not been evaluated by the Agency and do not reflect the views of the Agency.

FCA US described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety. FCA US submitted the following views and arguments in support of the petition:

- A. For the purposes of FMVSS No. 108, the primary function of a reflex reflector is to prevent crashes **by permitting early detection of an unlighted motor vehicle at an intersection or when parked on or by the side of the road.**

Because reflex reflectors are not independent light sources, their performance is wholly reliant upon the amount of illumination they receive from vehicle headlamps. Ideally, a reflex reflector would achieve its highest performance when the reflex reflector is mounted at the height of another vehicle's lower beam 'hot spot.' Due to the significant range of permissible mounting heights for headlamps (between 22 and 54 inches), achieving such ideal performance is impractical. FMVSS No. 108, which establishes minimum performance standards for reflex reflectors, specifies a range of acceptable reflector mounting heights (not less than 15 inches or more than 60 inches) to ensure that reflex reflectors are exposed to enough illumination to be effective. The standard also provides allowances in the fore and aft location of reflex reflectors (e.g., as far to the front as practicable). This flexibility provides vehicle manufacturers with sufficient flexibility in mounting locations to ensure that the mounting height remains in the appropriate range to ensure adequate reflex reflector performance relative to headlamps that would illuminate them." Decision on Petition for Inconsequential Noncompliance, 82 FR 24204, May 25, 2017. (emphasis added by FCA US).

B. For reasons discussed below, and supported by a demonstration project conducted by FCA US, FCA US submits that the reflex reflectors on the subject vehicles perform adequately to meet the safety purpose of the standard because they permit the early detection of an unlighted motor vehicle at an intersection or when parked, notwithstanding their deviation from certain photometric requirements.

1. FCA US believes that the failure of these reflex reflectors to meet the photometric requirements does not reduce their effectiveness in providing the necessary visibility for oncoming vehicles and that the difference between the reflectivity provided by a compliant reflector is not distinguishable from the reflectivity provided by a noncompliant reflector. To demonstrate this point, FCA US conducted an informal evaluation comparing the performance of a Dodge Journey equipped with a known compliant reflex reflector with a Dodge Journey equipped with a known noncompliant reflex reflector. This evaluation was conducted with two Dodge Journey vehicles parked front end to front end across the road surface, 100 feet (30.5 meters) away from vehicles that used their headlamps as a source of illumination for observers to evaluate the luminous intensity of each front side reflex reflector. The 100 feet (30.5 meters) distance was chosen because that is the distance specified in FMVSS No. 108 and CMVSS No. 108 for testing reflex reflectors using a goniometer in a photometric laboratory.
2. A 2019 Jeep Cherokee with LED projector headlamps and a 2019 Ram 1500 Pickup Truck with LED reflector headlamps were used as sources of illumination. Sixteen volunteer evaluators (who were FCA US or FCA Canada, Inc., employees) stood immediately in front of, and at the centerline of, the vehicles

whose headlamps were being used as the source of illumination. Evaluators were asked if they were able to distinguish a difference between the compliant and noncompliant reflex reflectors. None of the evaluators were able to distinguish any luminous intensity differences of the light being reflected in any of the scenarios.

3. The reflex reflectors in the subject vehicles were mounted 32.31 to 32.62 inches from the ground to the center of the devices. The headlamp mounting heights of the two vehicles used as sources of illumination in the evaluation are 34.89 inches for the Jeep Cherokee and 39.59 inches for the Ram 1500. FCA US believes that these vehicles cover the range of typical headlamp mounting heights for vehicles on the road today. Nevertheless, FCA US is undertaking another round of evaluations using a vehicle with a lower headlamp mounting height as a source of illumination to try to demonstrate a “worst-case” scenario. FCA US expects to supplement this petition with the results of that further evaluation in the near future. (See Supplement to FCA US Petition, dated May 14, 2019.)

**FCA’s Evaluation:** A subjective evaluation was conducted on a Dodge Journey with a headlamp assembly containing a front side reflex reflector known not to meet FMVSS No. 108 / CMVSS No. 108 photometric requirements compared to a Dodge Journey with a headlamp assembly containing a front side reflex reflector known to meet FMVSS No. 108/CMVSS No. 108 photometric requirements. This evaluation was conducted at 6:30 am, Friday, March 22, 2019, in the Lighting Tunnel at the FCA Canada Automotive Research and Development Center in Windsor, Ontario, Canada. Sixteen FCA US employees, with various job responsibilities, participated in this subjective evaluation.

This evaluation was conducted with two Dodge Journey vehicles parked front end to front end across the road surface, 100 feet (30.5 meters) away from vehicles that used their headlamps as a source of illumination for observers to evaluate the luminous intensity of each front side reflex reflector. The 100 feet (30.5 meters) distance was chosen because that is the distance that is specified in FMVSS No. 108 and CMVSS No. 108 for testing reflex reflectors using a goniometer in a photometric laboratory.

A black Dodge Journey was parked across the left side of the pavement with a passenger-side headlamp containing a front side reflex reflector known to not meet FMVSS No. 108 and CMVSS No. 108 photometric requirements. A red Dodge Journey was parked across the right side of the pavement with a driver-side headlamp containing a front side reflex reflector known to meet FMVSS No. 108 and CMVSS No. 108 photometric requirements.

A 2019 Jeep Cherokee with LED projector headlamps and a 2019 Ram 1500 Pickup Truck with LED reflector headlamps were used as sources of illumination. Evaluators stood immediately in front of, and at the centerline of, the vehicles whose headlamps were being used as the source of illumination. Evaluators were asked if they were able to distinguish a difference between the reflex reflectors.

Five different scenarios were subjectively evaluated as described below:

**Subjective Evaluation A:** Jeep Cherokee Low beam Headlamps used as light source at center of the pavement shining towards the two Dodge Journey Vehicles.

**Subjective Evaluation B:** Jeep Cherokee High beam Headlamps used as light source at center of the pavement shining towards the two Dodge Journey Vehicles.



**Subjective Evaluation C:** Jeep Cherokee Low beam Headlamps used as light source at the left edge of pavement (146 inches to the left of the centerline of pavement) shining towards the two Dodge Journey vehicles.

**Subjective Evaluation D:** Jeep Cherokee Low beam Headlamps used as light source at the right edge of pavement (150 inches to the right of the centerline of pavement) shining towards the two Dodge Journey vehicles.

**Subjective Evaluation E:** Ram 1500 Pickup Truck Low beam Headlamps used as light source at the center of the pavement shining towards the two Dodge Journey vehicles.

**Findings:** None of the sixteen evaluators were able to distinguish any luminous intensity differences of the light being reflected to their eyes from the Dodge Journey front side reflex reflectors that were being illuminated by the headlamps of the source vehicles in the five subjective evaluations that were conducted.

FCA US submitted a supplemental petition dated May 14, 2019, and provided the following supplemental information:

**Background:** Reflex reflectors are devices used on vehicles to give an indication to approaching drivers using reflected light from the lamps of the approaching vehicle. A subjective evaluation of the “on-vehicle” reflective performance of Dodge Journey Front Side Reflex Reflectors was conducted to determine if human eyes are capable of distinguishing between reflex reflectors known to not meet, and known to meet, the photometric requirements of FMVSS 108 and CMVSS 108.

The original subjective evaluation was conducted on March 22, 2019, in the Lighting Tunnel at the FCA Canada Automotive Research and Development Center in Windsor, Ontario, Canada, with headlamps of two different vehicles used as sources of illumination. The first

vehicle used as a source of illumination was a Jeep Cherokee that had a headlamp mounting height of 34.89 inches above ground (as measured to the center of the device). The second vehicle used as a source of illumination was a Ram 1500 Pickup Truck that had a headlamp mounting height of 39.59 inches above ground (as measured to the center of the device).

This follow-up evaluation was conducted using an Alfa Romeo Giulia that had a headlamp mounting height of 26.50 inches above ground (as measured to the center of the device). This vehicle was chosen to demonstrate a scenario of a vehicle with low headlamp mounting heights being used as the source of illumination. (Please note the lettering is sequential to those used in the previous March 22, 2019 report.)

**FCA's follow-up Evaluation:** A subjective evaluation was conducted on a Dodge Journey with a headlamp assembly containing a front side reflex reflector known not to meet FMVSS No. 108/CMVSS No. 108 photometric requirements compared to a Dodge Journey with a headlamp assembly containing a front side reflex reflector known to meet FMVSS No. 108/CMVSS No. 108 photometric requirements. This evaluation was conducted at 9:00 am, Friday, April 26, 2019, in the Lighting Tunnel at the FCA Canada Automotive Research and Development Center in Windsor, Ontario, Canada. Eight FCA US employees, with various job responsibilities, participated in this subjective evaluation.

This evaluation was conducted with two Dodge Journey vehicles parked front end to front end across the road surface, 100 feet (30.5 meters) away from an Alfa Romeo Giulia vehicle that used its headlamps as a source of illumination for observers to evaluate the luminous intensity of each front side reflex reflector. The 100 feet (30.5 meters) distance was chosen because that is the distance that is specified in FMVSS No. 108 and CMVSS No. 108 for testing reflex reflectors using a goniometer in a photometric laboratory.

A red Dodge Journey was parked across the left side of the pavement with a passenger-side headlamp containing a front side reflex reflector known to not meet FMVSS No. 108 and CMVSS No. 108 photometric requirements. Another red Dodge Journey was parked across the right side of the pavement with a driver-side headlamp containing a front side reflex reflector known to meet FMVSS No. 108 and CMVSS No. 108 photometric requirements. These were the same headlamp assemblies and side reflex reflectors that were used for the previous subjective evaluation that occurred on March 22, 2019.

A 2019 Alfa Romeo Giulia with Bi-Xenon Projector Headlamps (25 watt D5S light sources) was used as the source of illumination. Evaluators stood immediately in front of, and at the centerline of, the Alfa Romeo Giulia vehicle while its headlamps were being used as the source of illumination. Evaluators were asked if they were able to distinguish a difference between the reflex reflectors.

Four different scenarios were subjectively evaluated as described below:

**Subjective Evaluation F:** Alfa Romeo Giulia Low Beam Headlamps used as a light source at the center of the pavement shining towards the two Dodge Journey vehicles.

**Subjective Evaluation G:** Alfa Romeo Giulia High Beam Headlamps used as a light source at the center of the pavement shining towards the two Dodge Journey vehicles.

**Subjective Evaluation H:** Alfa Romeo Giulia Low Beam Headlamps used as a light source at the left edge of pavement (146 inches to the left of the centerline of pavement) shining towards the two Dodge Journey vehicles.

**Subjective Evaluation J:** Alfa Romeo Giulia Low Beam Headlamps used as a light source at the right edge of pavement (150 inches to the right of the centerline of pavement) shining towards the two Dodge Journey vehicles.

**Findings:** None of the eight evaluators were able to distinguish any luminous intensity differences of the light being reflected to their eyes from the Dodge Journey front side reflex reflectors that were being illuminated by the headlamps of the Alfa Romeo Giulia in the four subjective evaluations that were conducted.

FCA US concluded by expressing its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject equipment and vehicles that FCA US no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment and vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant equipment and vehicles under their control after FCA US notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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**Billing Code 4910-59-P**

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